IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.118 OF 2007
IN
SUMMERY SUIT NO. 241 OF 2007

Mr. Kranti Kumar Agarwal. ... Plaintiff.

V/s.

Calama Industries Pvt. Ltd. ... Defendant.

Mr. M.R. Desai for the Plaintiff.
None for the Defendant.

CORAM : DR. D.Y. CHANDRACHUD,J.

18TH JUNE 2007.

P.C. :-

. The suit under order 37 of the code of Civil Procedure has been instituted for the recovery of outstandings due in respect of goods sold, supplied and delivered by the Plaintiff to the Defendant. The bills are between the period 31st October 2003 and 28th July 2004. The suit was lodged on 30th October 2006 within the period of limitation. Copies of the invoices are annexed at Exhibit 'A', while copies of the delivery challans are at Exhibit 'B'. A notice of demand was addressed to the Defendant on 8th October 2006 to which there was no reply. The principal amount due under the bills is Rs.4,41,081/-.

2. The Defendant was served with the writ of summons and has entered appearance. The hearing of the Summons for Judgment was adjourned on 16th April 2007, 30th April 2007 and 8th June 2007. Yet, no reply has been filed to the Summons for Judgment. Counsel appearing on behalf of the Plaintiff has tendered a compilation of the original documents on the basis of which the claim in the suit stands proved. Even otherwise, the Defendant having failed to enter appearance, the Plaintiff would be entitled to a decree under Order 37 of the C.P.C. The claim of the Plaintiff is based on a written contract and falls within the purview of Order 37.

3. The Suit shall stand decreed in the sum of Rs.4,41,081/-. The Plaintiff would be entitled to interest at the rate of 9% per annum from the respective due dates of the bills until the institution of the suit and at the same rate from the date of the institution of the Suit until payment or realization.

The Summons for Judgment is accordingly made absolute.

4. Refund of Court fees if any, as per rules.